

OFFICIAL COPY

Fresno, California

November 27, 2001

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chambers, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Brad Castillo	Councilmember
	Jerry Duncan	Councilmember
	Sal Quintero	Councilmember
	Dan Ronquillo	Acting Council President
	Henry Perea	Council President

Dan Hobbs, City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Father Arshen Alvazian, St. Paul Armenian Church, gave the invocation, and an unidentified student from Roosevelt High School led the Pledge of Allegiance to the Flag.

A visiting government class from Roosevelt High School was recognized and welcomed.

PROCLAMATION FOR PHILLIP E. HAUCK - ACTING PRESIDENT RONQUILLO

RESOLUTION OF COMMENDATION TO JOYCE RATHBONE, VOLUNTEER AT THE FRESNO POLICE DEPARTMENT - MAYOR AND COUNCIL

PROCLAMATION OF ROOSEVELT SCHOOL OF THE ARTS DAY - MAYOR AND COUNCIL

PRESENTATION OF DISTRICT 4 STUDENT RECOGNITION AWARDS - COUNCILMEMBER CASTILLO

PRESENTATION BY THE FRESNO AREA EXPRESS ADA ADVISORY COMMITTEE OF THE 3RD QUARTER DRIVER APPRECIATION AWARDS

The above awards, resolution and proclamations were read and presented.

- - - -

(9:00 A.M.) INVITATION BY THE HUNTINGTON BOULEVARD HOMEOWNERS ASSOCIATION TO ATTEND THE CANDLELIGHT CHRISTMAS TREE CEREMONY - COUNCILMEMBER QUINTERO

Invitation extended **(2 - 0)**.

- - - -

JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council met in joint session with the Redevelopment Agency at 9:26 a.m.

APPROVE AGENCY MINUTES OF NOVEMBER 6, 2001

On motion of President Perea, seconded by Councilmember Castillo, duly carried, RESOLVED, the Agency minutes of November 6, 2001, approved as submitted.

APPROVE JOINT POWERS FINANCE AUTHORITY (JPFA) MINUTES OF OCTOBER 30, 2001 (MEMBERS PEREA AND DUNCAN ONLY)

On motion of Member Perea, seconded by Member Duncan, duly carried, RESOLVED, the JPFA minutes of October 30, 2001, approved as submitted.

(“A”) HEARING TO CONSIDER A DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE AGENCY AND THE FRESNO UNIFIED SCHOOL DISTRICT (FUSD), AND A SUMMARY REPORT REGARDING PROPERTY NEXT TO COMPUTECH MIDDLE SCHOOL IN THE SOUTHWEST FRESNO GENERAL NEIGHBORHOOD RENEWAL AREA - 2322 S. LEE (COUNCIL AND AGENCY ACTION)

1. JOINT RESOLUTION NO. 01-376 /1594 - APPROVING THE DDA BETWEEN THE AGENCY AND THE FUSD, MAKING CERTAIN FINDINGS PURSUANT TO COMMUNITY REDEVELOPMENT LAW, AND AUTHORIZING STAFF TO TAKE CERTAIN ACTIONS AND EXECUTE CERTAIN DOCUMENTS

Chair Duncan announced the time had arrived to consider the issue and opened the hearing. Director Fitzpatrick reviewed the issue and staff report as submitted.

Upon call, no one else wished to be heard and Chair Duncan closed the hearing.

Acting President Ronquillo commended staff for their work, spoke briefly in support stating this was a good proposal for the site, and made a motion to approve staff's recommendation.

On motion of Acting President Ronquillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Joint Resolution No. 01-376/1594 authorizing the sale of the Agency-owned parcel at the southwest corner of Florence and Lee to the FUSD at the appraised sales price of \$200,000 hereby adopted, and the Executive Director or Redevelopment Administrator authorized to execute the documents necessary to effectuate the transaction, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Perea, Quintero, Ronquillo, Duncan
Noes	:	None
Absent	:	None

- - - -

The joint bodies adjourned their meeting at 9:31 a.m. and the City Council reconvened in regular session.

APPROVE CITY COUNCIL MINUTES OF NOVEMBER 6 AND 20, 2001

On motion of Councilmember Calhoun, seconded by Acting President Ronquillo, duly carried, RESOLVED, the City Council minutes of November 6 and 20, 2001, approved as submitted.

- - - -

APPROVE AGENDA:

(2:50 P.M.) APPEARANCE BY JOHN DAVIS, BUSINESS MANAGER FOR STATIONARY ENGINEERS LOCAL 39, REQUESTING THE CITY IMPLEMENT AND FUND CALIFORNIA STATE DISABILITY INSURANCE BENEFITS TO BOLSTER CITY EMPLOYEES' SICK LEAVE BENEFITS

Request to appear withdrawn.

(3:15 P.M.) WORKSHOP AND POLICY DIRECTION RELATED TO THE PROCESSING OF CONDITIONAL USE PERMITS (CUPs) GOVERNING THE SALE OF ALCOHOL

Laid over to December 4, 2001.

(B) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:
2. CLAYTON TURNER V. CITY OF FRESNO, ET AL.

Laid over.

(4:30 P.M.) * BILL NO. B-91 - ADDING SECTION 8-135 TO THE FRESNO MUNICIPAL CODE RELATING TO JUVENILE ACCOUNTABILITY

Upon question of Councilmember Duncan, City Attorney Montoy advised Council limiting speakers this date to only those who did not speak two weeks ago was not permissible and Council could only request speakers to limit their remarks and not be redundant as they were already on record.

(10:00 A.M. #1) HEARING ON REZONING APPLICATION NO. R-00-011 AND ENVIRONMENTAL FINDINGS, FILED BY RICHARD GINDER, JR., PROPERTY LOCATED AT 6875 N. MILBURN AVENUE (IN DISTRICT 2) (**CONTINUE TO 2:15 P.M. #2**)

Continued as noted.

(10:15 A.M.) HEARING ON REZONING APPLICATION NO. R-01-041 AND ENVIRONMENTAL FINDINGS, FILED BY HORACE E. BRUNO, PROPERTY LOCATED AT 4537 E. HAMMOND AVENUE (IN DISTRICT 4) (**CONTINUE TO 2:15 P.M. #3**)

Continued as noted.

(10:30 A.M.) HEARING ON REZONING APPLICATION NO. R-01-043 AND ENVIRONMENTAL FINDINGS, FILED BY LOGAN AND ASSOCIATES ON BEHALF OF DERREL'S MINI STORAGE, PROPERTY LOCATED AT 4660 E. DAKOTA AVENUE (IN DISTRICT 4) (CONTINUE TO 2:15 P.M. #4)

(10:45 A.M.) HEARING ON PLAN AMENDMENT NO. A-01-24, REZONING APPLICATION NO. R-01-38, CONDITIONAL USE PERMIT (CUP) NO. C-01-149 AND ENVIRONMENTAL FINDINGS, FILED BY LOGAN AND ASSOCIATES ON BEHALF OF DERREL'S MINI STORAGE, PROPERTY LOCATED WEST OF THE NORTHWEST CORNER OF W. HERNDON AND N. HAYES AVENUES (LOCATED IN DISTRICT 2) (CONTINUE TO 2:15 P.M. #5)

(11:15 A.M.) HEARING ON CONDITIONAL USE PERMIT (CUP) APPLICATION NO. 01-145, FILED BY ALGEN HOTEL DEVELOPMENT LLC, FOR A 15-STORY/400-ROOM HOTEL AND CONVENTION FACILITY ON THE NORTHEAST CORNER OF "M" AND INYO STREETS (808 "M" STREET), AND A CONVENTION CENTER PARKING STRUCTURE LOCATED AT THE SOUTHWEST CORNER OF "O" AND VENTURA STREETS EXTENDING TO INYO STREET NORTH OF THE CONVENTION CENTER COMPLEX (LOCATED IN DISTRICT 3) (CONTINUE TO 2:15 P.M. #6)

Continued as noted.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

- - - -

ADOPT CONSENT CALENDAR:

(1A-1a.) AWARD A ONE-YEAR REQUIREMENTS CONTRACT WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS TO VULCAN MATERIALS IN THE AMOUNT OF \$644,695 FOR PORTLAND CEMENT

(1A-1b.) AWARD A ONE-YEAR REQUIREMENTS CONTRACT WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS TO POLYDYNE, UNC. IN THE ESTIMATED AMOUNT OF \$318,881.24 FOR CATIONIC POLYMER

(1A-4a.) APPROVE REAPPOINTMENTS OF WILLIAM WILDER TO THE CONSOLIDATED MOSQUITO ABATEMENT DISTRICT, AND RICHARD JORDAN TO THE FRESNO MOSQUITO AND VECTOR CONTROL DISTRICT - MAYOR AUTRY

(1A-7a.) **RESOLUTION NO. 01-377** - SUPPORTING THE CITY OF FRESNO'S PARTICIPATION IN A REGIONAL TRAIL PLANNING AND IMPLEMENTATION PARTNERSHIP

(1a-8a.) **RESOLUTION NO. 01-378** - 48TH AMENDMENT TO AAR 01-200 APPROPRIATING \$40,000 IN THE FIRE DEPARTMENT OBTAINED AS REIMBURSEMENT OF EXPENSES RELATED TO THE DEVELOPMENT OF A METROPOLITAN MEDICAL RESPONSE SYSTEM (MMRS)

(1A-11a.) * RESOLUTION NO. 01-379 - 53RD AMENDMENT TO AAR 01-200 APPROPRIATING \$166,000 TO ACQUIRE HIGH TECHNOLOGY EQUIPMENT THROUGH THE CALIFORNIA LAW ENFORCEMENT EQUIPMENT PURCHASE II (CLEEPII) PROGRAM)

(1A-11b.) AUTHORIZE THE CHIEF OF POLICE TO EXECUTE AN AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF JUSTICE TO RECEIVE \$153,400 TO IMPLEMENT A NATIONAL INCIDENT-BASED REPORTING SYSTEM (NIBRS) PROGRAM

1. * RESOLUTION NO. 01-380 - 54th AMENDMENT TO AAR 01-200 APPROPRIATING \$153,400 FOR THE NIBRS PROGRAM

2. * RESOLUTION NO. 01-381 - 6th AMENDMENT TO PAR 01-201 ADDING ONE (1) PROGRAMMER ANALYST POSITION FOR THE NIBRS PROGRAM

(1A-13a.) ADOPT RESOLUTION OF INTENTION NO. 1025-D FOR THE VACATION OF THE TULARE-IOWA ALLEY BETWEEN FREEWAY 41 AND ORCHARD AVENUE AND SETTING THE PUBLIC HEARING FOR DECEMBER 18, 2001, AT 10:00 A.M.

(1A-13b.) APPROVE AGREEMENT WITH THE CALIFORNIA STATE DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR THE POSITIVE LOCATION OF UNDERGROUND UTILITIES; AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY

(1A-13c.) APPROVE AMENDMENT TO AGREEMENT WITH CAMP, DRESSER & MCKEE, INC., IN THE AMOUNT OF \$384,800 FOR ENVIRONMENTAL ENGINEERING SERVICES RELATING TO GROUNDWATER REMEDIATION ACTIVITIES AT THE FRESNO SANITARY LANDFILL SUPERFUND SITE

On motion of Councilmember Quintero, seconded by Acting President Ronquillo, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

- - - -

(9:10 A.M.) PROVIDE DIRECTION REGARDING THE FORM OF A RESTRUCTURING AGREEMENT RELATING TO CITY OF FRESNO TAXABLE PENSION OBLIGATION BONDS, REFUNDING SERIES A, B, C AND D OF 2000 (AUCTION RATE BONDS)

Controller Quinto reviewed the issue as contained in the staff report at length, advised of the three major decisions that needed to be made in the restructuring and staff's recommendations, stated there was a concern regarding the Property Tax Override and explained, and advised staff's recommendation was to place the savings in an unappropriated reserve fund which would provide for economic uncertainty and explained.

Ms. Quinto, City Manager Hobbs and Assistant City Manager Souza clarified issues and/or responded to questions and/or concerns of Acting President Ronquillo and Councilmember Duncan relative to the sunset date on the first contract, the proposed extension date, concern with spreading the debt obligation out to 2029 and the need to

determine how to cover the debt sooner, why the bonds had to be extended to 2029, recommendation to place savings in a reserve to protect the city's fiscal condition, President Perea clarifying there would be an opportunity for future discussion on what to do with the savings generated, and why the variable rate was used in July 2000.

Councilmember Duncan complimented Ms. Quinto on her presentation to the FRC stating it was very enlightening, stressed the city needed to take advantage of the historic interest rates as he did not feel these rates would ever be seen again, it would provide an opportunity to put back and restore the reserve funds that were depleted by the previous administration and would also be a significant step in restoring the financial health of the city on a long term basis, and made a motion to direct staff to move forward with the restructuring process and look to a fifteen year refinance period, which motion was seconded and later acted upon.

Lengthy discussion ensued with Ms. Quinto and City Attorney Montoy clarifying issues and responding to questions and/or comments of Councilmembers Calhoun, Boyajian, Acting President Ronquillo and President Perea relative to staff's recommendation being to *not* use any savings accrued this fiscal year in this year's budget, if the restructuring would affect the 10% department contingencies, issues to be covered in the mid-year budget review, if there was any potential of linking any savings to this year's budget, if the Redevelopment Agency's debt could be linked with the restructuring, why other debts were not being looked at if rates were so advantageous at this time, Council having input on potential uses of the savings, what the purpose/result of the bond transaction was, if there was a way to separate the savings from this transaction from other revenues projected over this and future year's budgets and having -- at some point -- staff's recommendations on potential uses of the funds to cover the city's continued debt (**3 - 0**)(with Acting President Ronquillo stating the debt will never really be covered unless it is seriously tackled now), and if an unappropriated reserve currently existed and if the savings were recommended to go into that account. President Perea recommended a policy decision be made this date and requested the motion be amended to direct that all generated savings go into the unappropriated reserve and not "plug holes" around the city, with Ms. Montoy clarifying issues, advising Council could not bind future Councils on how to spend future savings, and recommended Council give direction to staff to determine what kinds of limitations could be fashioned when staff returns with bond documents. President Perea stated, as he had seen before, very serious issues would have to grappled with with respect to the budget and he felt the temptation was going to be too great to look at the reserve and start saying "let's plug the holes" with the savings. Mr. Hobbs stated the Mayor would be supportive of President Perea's views and clarified the administration's intent was to use the reserves to protect the city in a year or two of economic uncertainty and go into the reserve adding expenditure plans would not be unveiled.

Councilmember Castillo stated the FRC dealt with some of the same issues raised and the sentiment was the same in that the savings were not going to be used to "plug in some holes"; clarified departments needed to know that if belts were not tightened and they did not save at least 10%, and not spend at 100% as has been occurring, the city would be in the same hole and face the same budget problems next year; stressed six months ago department heads should have told management staff to scale back the 10% as there was a possibility there might not be money available at the end of the year due to the uncertainty of tax increment revenues; stated he wanted to ensure, out of the Controller's hard work, that the savings are not used to make ends meet as that was not the purpose of the refinancing adding currently the city's reserves were way below the level of other cities' standards.

Councilmember Boyajian noted there were so many needs, especially capital improvement projects, and he had hoped the 10% savings would have gone to those improvements; stated Council gave so much in the budget and he would not have voted in support if he thought money was not coming back to the neighborhoods; and stressed he hoped citizens' and districts' needs would be the emphasis on the use of the savings when it comes back.

Councilmember Duncan noted his interpretation of the 10% contingency was different from Councilmember Castillo's and called for the question. Mr. Hobbs clarified staff was directed to save money when ever and where ever they could but they were also directed to carry out the annual work program approved by Council adding Council did not approve a 90% work program and services were not cut by 10% and explained. Councilmember Castillo questioned what the meaning of a 10% contingency fund was with Ms. Montoy clarifying the contingency was not a reserve but a method to say there may be a need for 10% of the budget and to await the Macias and FRC reports. Brief discussion ensued on the authority of the FRC relative to the 10% contingency and departments showing which projects they would not be able complete if the 10% contingency was not released, whereupon it was determined discussion was deviating way off the subject and Councilmember Castillo directed the matter be scheduled on the next agenda.

On motion of Councilmember Duncan, seconded by Councilmember Quintero, duly carried, RESOLVED, staff directed to move forward with the restructuring activities and look to a fifteen year refinance period, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

Councilmember Calhoun encouraged staff to return with creative options for the use of the savings.

- - - -

(9:40 A.M.) ACCEPT PRESENTATION BY THE HISTORIC PRESERVATION COMMISSION OF THEIR ANNUAL REPORT: "THE STATE OF HISTORIC PRESERVATION - 2000-2001"

HNR Manager Bowness introduced Kevin Enns-Rempel, Chair of the Historic Preservation Commission, and commended the commission for all their hard work. Mr. Enns-Remple presented the 5th Annual Report and reviewed the highlights. Council commended Mr. Enns-Remple and the commission for their work and the record and commented briefly on various issues such as the Fresno City College Administration Building, need to acknowledge individuals involved in the Water Tower Visitor's Center, the Russ Clemens gas station, and need for a grant writer to assist in obtaining funds to preserve and heighten historic districts, with Mr. Enns-Remple responding to questions and comments. By Council consensus the report was accepted and there was no further discussion.

- - - -

(10:00 A.M. #1) IMPLEMENTATION REPORT AND PRESENTATION ON THE MACIAS CONSULTING GROUP'S RECOMMENDATIONS

Bill Kerchoff, Project Manager for the implementation of the Macias Report Recommendations, gave an overview of the 60 day progress report as submitted using the overhead to illustrate **(4 - 0)**, and along with City Manager Hobbs responded to questions and/or comments of Acting President Ronquillo, Councilmembers Duncan, Boyajian and Castillo relative to dealing with actual and imagined RDA debt owed to the city, RDA projects and economic impact, and benefit of RDA, responses to items labeled "implementation unrealistic" (committee to identify/

address employees concerns, consolidating community cleanup, reduction in weekly track pickups, Zoo reorganization to public-private partnership), implementation time frame, if the Macias review was good for the city of Fresno, if ways of running government better were found in the analysis, if a review needed to be conducted on a regular basis, and Councilmember Castillo's request for a report on the feasibility of winter and summer solid waste schedules and alternating recycling and green waste pickups weekly for cost savings. Noting it was getting near the end of 100 days, Mr. Hobbs recommended an addendum to 20C be included when the report is brought back to see if it addresses Councilmember Castillo's questions vs. a major project on reexamining services. There was no further discussion.

1. REQUEST FOR DIRECTION REGARDING PERFORMANCE AUDITING SERVICES FOR THE REMAINING CITY DEPARTMENTS

President Perea passed out minutes of May 2001 noting direction was given that date to amend the contract to perform audits of the remaining departments and Council was now being asked to undo that direction. City Manager Hobbs reviewed the issue and his oversight/misunderstanding of Council's previous direction and stated he felt the services proposed by the Macias Group were over-priced and requested he be allowed to approach other firms about completing the reviews of the remaining four departments and develop a contract of services with the International Association Chiefs of Police to review the police department, both at a decreased cost as noted in his report.

President Perea and Councilmember Boyajian briefly commented on the issue and spoke in support of Council's prior direction with Councilmember Boyajian stating it would have been nice if the Macias Group had been present to comment on the city manager's recommendation. Councilmember Duncan stated he also would have liked to have talked with the Macias Group but he was inclined to support the city manager's recommendation citing cost savings, and made a motion to approve staff's recommendations. The motion was seconded and acted upon after brief comments by Councilmember Calhoun who spoke in support of the motion and Acting President Ronquillo who spoke in support of the prior direction but clarified he felt implementation of recommendations for the police department should be conducted by someone other than the Macias Group who has more proficiencies and understandings of police departments.

A motion of Councilmember Duncan, seconded by Councilmember Calhoun, to request the City Manager to (1) approach other consulting firms about completing the review of the remaining four City departments, (2) develop a contract of services with the International Association Chiefs of Police to comprehensively review the Police Department (The review should be greater than that proposed by the Macias Group and the cost should not exceed \$90,000 as compared to the Macias quote of \$140,000), (3) keep the Council informed of progress on #1 and #2 with the objective of presenting contracts for approval by the City Council around the first of the year, and (4) the total of these contracts should stay within the currently appropriated \$140,000, as compared to the Macias quote of \$276,000 failed, by the following vote:

Ayes	:	Calhoun, Duncan, Quintero
Noes	:	Boyajian, Castillo, Ronquillo, Perea
Absent	:	None

Councilmember Castillo stated the city manager's recommendations to save money was not a bad ideal but he wanted the Macias Group to appear before Council and speak to the issue of saving money for the city and if they could not he agreed the city should look elsewhere. Brief discussion ensued with Councilmember Duncan questioning the

potential of bringing the matter back for another vote, City Attorney Montoy clarified the May 2001 direction stood unless another action is taken to reconsider the matter, and Mr. Hobbs clarified \$140,000 had been appropriated for the police study only and \$136,000 would need to be appropriated down the road. There was no further discussion.

- - - -

(11:00 A.M.) HEARING ON PLAN AMENDMENT BO. A-01-20, REZONING APPLICATION NO. R-01-31 AND ENVIRONMENTAL FINDINGS, FILED BY COUNTRY CLUB DEVELOPERS, 125 ACRES LOCATED ON THE SOUTH SIDE OF E. COPPER AVENUE BETWEEN THE N. CEDAR AND N. MILLBROOK AVENUE ALIGNMENTS (LOCATED IN DISTRICT 6)

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-01-20, R-01-31

2. RESOLUTION NO 01-382 - AMENDING THE WOODWARD PARK COMMUNITY PLAN FROM THE AGRICULTURE/URBAN RESERVE TO THE MEDIUM-LOW DENSITY RESIDENTIAL LAND USE DESIGNATION, AND RE-DESIGNATION OF COPPER AVENUE BETWEEN CEDAR AND MILLBROOK FROM THE ARTERIAL TO SUPER-ARTERIAL STREET CLASSIFICATION

3. BILL NO. B-92 - ORDINANCE NO. 01-81 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AL-20 (COUNTY) TO R-1/UGM

President Perea announced the time had arrived to consider the issue and opened the hearing.

Councilmember Duncan noted a lot of discussion had occurred on the tract map and affects on residential streets clarifying there was a long way to go to reach that point and neighborhood concerns would be addressed, **(5 - 0)** and stated this was a good project and made a motion to approve staff's recommendation. Acting President Ronquillo left at 11:48 a.m. and was absent for the remainder of the issue. Planning Manager Haro gave an overview of the project using a map to illustrate and related issues, and recommended approval subject to conditions outlined in the staff report.

Gary McDonald, one of the principals of Country Club Developers LLC, stated he concurred with staff's findings and would complete any mitigation measures necessary to complete their project and requested approval, and advised area residents in attendance understood the tract map would come back at another time.

Upon call, no one else wished to be heard and President Perea closed the hearing.

On motion of Councilmember Duncan, seconded by Councilmember Quintero, duly carried, **RESOLVED**, the Mitigated Negative Declaration for Environmental Assessment No. A-01-20, R-01-321, TT-5000, TT-5029 dated October 16, 2001, hereby approved; the above entitled Resolution No. 01-382 amending the Fresno General Plan and Woodward park Community Plan and changing the major street designation of E. Copper Avenue between N. Millbrook and N. Cedar Avenues from the arterial to the super-arterial designation hereby adopted ; and the above entitled Bill No. B-92 rezoning the property adopted as Ordinance No. 01-81, by the following vote:

Ayes	:	Calhoun, Castillo, Duncan, Quintero, Perea
Noes	:	Boyajian,
Absent	:	Ronquillo

- - - -

LUNCH RECESS - 11:52 A.M. - 2:01 P.M.

(2:00 P.M. #2) CONTESTED CONSENT CALENDAR ITEMS:

(1A-13d.) RESOLUTION NO. 01-383 - INTENT TO APPROVE THE FORCE ACCOUNT CONTRACTING METHOD FOR THE INSTALLATION OF TRAFFIC OPERATIONS COMMUNICATION EQUIPMENT

William Seiffert, 7649 Sunrise Blvd., Suite G, Citrus Heights, CA, spoke in opposition to staff's recommendation and urged the city go out to competitive bidding and enact some kind of force account limit and explained.

Supervising Engineer Jarvis, Public Works Director Williamson and City Attorney Montoy briefly clarified issues and responded to questions of Councilmember Duncan relative to the problems revealed in the peer review, why the bids were not revised to seek additional responses, and if a force account limit was needed

On motion of Councilmember Calhoun, seconded by Councilmember Boyajian, duly carried, RESOLVED, the above entitled Resolution No. 01-383 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Quintero, Ronquillo, Perea
Noes	:	Duncan
Absent	:	None

(1A-11c.) * RESOLUTION NO. 01-384 - AUTHORIZING THE CHIEF OF POLICE AND LABOR RELATIONS MANAGER TO EXECUTE A SIDE LETTER OF AGREEMENT TO THE FRESNO CITY EMPLOYEES' ASSOCIATION (FCEA) MEMORANDUM OF UNDERSTANDING AS IT APPLIES TO COMMUNITY SERVICES OFFICERS ASSIGNED TO THE CALL DIVERSION UNIT

Capt. Enmark and Labor Relations Manager Aguiniga responded to questions of Councilmember Calhoun relative to whether all parties were in agreement and if the added eight hours of vacation would set a precedent. Councilmember Calhoun commended all involved for addressing the problem identified during budget hearings.

On motion of Councilmember Calhoun, seconded by Councilmember Castillo, duly carried, RESOLVED, the above entitled Resolution No. 01-384 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

- - - -

(2:00 P.M. #1) CLOSED SESSION:

(A) CONFERENCE WITH LEGAL COUNSEL - FRIEND-OF-THE-COURT-PARTICIPATION - CASE NAME: AFFORD V. SUPERIOR COURT - AMICUS BRIEF

(B) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:
1. LOUIS LEHRE, A MINOR, BY AND THROUGH HIS GUARDIAN AD LITEM, CHERI LEHRE V. CITY OF FRESNO, ET AL.

3. CITY OF FRESNO V. CITY OF CLOVIS, LAFCO AND COUNTY OF FRESNO
4. BAKMAN WATER COMPANY, INC. V. BOEING NORTH AMERICAN, INC.; CITY OF FRESNO; THE UNITED STATES OF AMERICA, DEPARTMENT OF ARMY CORPS OF ENGINEERS, ETC.

(C) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE OF LITIGATION - CASE NAMES:

1. CLAIM OF ESTATE OF CAMPOS
2. CLAIM OF ESTATE OF CELAYA

The Council met in closed session in Room 2125 at the hour of 2:20 p.m. to consider the above matters and reconvened in regular open session at 4:01 p.m.

(D) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:

1. INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS LOCAL 39 (LOCAL 39)
2. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 100 (IBEW)

Laid over.

(E) THREAT TO PUBLIC SERVICES OR FACILITIES - CONSULTATION WITH THE CITY OF FRESNO POLICE DEPARTMENT, CHIEF OF POLICE JERRY DYER

Discussed briefly and laid over.

- - - -

(10:00 A.M. #1) **(2:15 P.M. #2)** HEARING ON REZONING APPLICATION NO. R-00-011 AND ENVIRONMENTAL FINDINGS, FILED BY RICHARD GINDER, JR., PROPERTY LOCATED AT 6875 N. MILBURN AVENUE (IN DISTRICT 2)

1. CONSIDER AND ADOPT CATEGORICAL EXEMPTION FOR ENVIRONMENTAL ASSESSMENT NO. R-00-11
2. **BILL NO. B-93 - ORDINANCE NO. 01-82** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM M-1/EA/BA-15/UGM/cz AND C-2/EA/BA-15/UGM/cz TO M-1/EA/BA-15/UGM/cz AND C-2EA/BA-15/UGM/cz WITH MINOR MODIFICATION TO EXISTING ZONING BOUNDARY AND REMOVE CONDITION REQUIRING DEVELOPMENT WITH M-1- DEVELOPMENT STANDARDS

President Perea announced the time had arrived to consider the issue and opened the hearing. A motion and second was made to approve staff's recommendation.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Calhoun , seconded by Acting President Ronquillo, duly carried, RESOLVED, the Negative Declaration for Rezoning Application No. R-00-011 hereby approved; and the above entitled Bill No. B-93 adopted as Ordinance No. 01-82, by the following vote:

Ayes : Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes : Boyajian
Absent : None

- - - -

(10:15 A.M.) **(2:15 P.M. #3)** HEARING ON REZONING APPLICATION NO. R-01-041 AND ENVIRONMENTAL FINDINGS, FILED BY HORACE E. BRUNO, PROPERTY LOCATED AT 4537 E. HAMMOND AVENUE (IN DISTRICT 4)

1. CONSIDER AND ADOPT CATEGORICAL EXEMPTION FOR ENVIRONMENTAL ASSESSMENT NO. R-01-41

2. BILL NO. B-94 - ORDINANCE NO. 01-83 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-1 TO M-1

President Perea announced the time had arrived to consider the issue and opened the hearing. A motion and second was made to approve staff's recommendation.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Castillo, seconded by Councilmember Calhoun, duly carried, **RESOLVED**, the Categorical Exemption for Rezoning Application No. R-00-041 hereby approved; and the above entitled Bill No. B-94 adopted as Ordinance No. 01-83, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes : None
Absent : None

- - - -

(2:15 P.M. #1) HEARING ON REZONING APPLICATION NO. R-01-29 AND ENVIRONMENTAL FINDINGS, FILED BY JEFFREY CRAIG HARRINGTON, ON BEHALF OF CENTRAL COMMUNITY CHURCH, PROPERTY LOCATED ON THE WEST SIDE OF N. POLK BETWEEN W. GETTYSBURG AND W. ACACIA AVENUES

1. CONSIDER AND ADOPT THE NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. R-01-29

2. BILL NO. B-95 - ORDINANCE NO, 01-84 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM AND AE-5 TO R-1/UGM AND R-1

President Perea announced the time had arrived to consider the issue and opened the hearing. A motion and second was made to approve staff's recommendation.

Upon call, no one else wished to be heard and President Perea closed the hearing.

On motion of Councilmember Calhoun, seconded by Acting President Ronquillo, duly carried, **RESOLVED**, the Negative Declaration for Rezoning Application No. R-01-029 hereby approved, and the above entitled Bill No. B-95 adopted as Ordinance No. 01-84, with the following condition: *Dedication for street right-of-way will be required along North Polk Avenue. The applicant shall enter into an agreement with the Public Works Department in a form acceptable to the Director*, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes : None
Absent : None

- - - -

(10:30 A.M.) **(2:15 P.M. #4)** HEARING ON REZONING APPLICATION NO. R-01-043 AND ENVIRONMENTAL FINDINGS, FILED BY LOGAN AND ASSOCIATES ON BEHALF OF DERREL'S MINI STORAGE, PROPERTY LOCATED AT 4660 E. DAKOTA AVENUE (IN DISTRICT 4)

1. CONSIDER AND ADOPT CATEGORICAL EXEMPTION FOR ENVIRONMENTAL ASSESSMENT BO. R-01-43

2. BILL NO. B-96 - ORDINANCE NO. 01-85 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM M-1/CZ WITH CONDITIONS TO S-L

President Perea announced the time had arrived to consider the issue and opened the hearing. A motion and second was made to approve staff's recommendation.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Castillo, seconded by Acting President Ronquillo, duly carried, RESOLVED, the Categorical Exemption for Rezoning Application No. R-00-043 hereby approved; and the above entitled Bill No. B-96 adopted as Ordinance No. 01-85, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes : None
Absent : None

- - - -

(10:45 A.M.) **(2:15 P.M. #5)** HEARING ON PLAN AMENDMENT NO. A-01-24, REZONING APPLICATION NO. R-01-38, CONDITIONAL USE PERMIT (CUP) NO. C-01-149 AND ENVIRONMENTAL FINDINGS, FILED BY LOGAN AND ASSOCIATES ON BEHALF OF DERREL'S MINI STORAGE, PROPERTY LOCATED WEST OF THE NORTHWEST CORNER OF W. HERNDON AND N. HAYES AVENUES (LOCATED IN DISTRICT 2)

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-01-24/R-01-38/C-01-149

2. RESOLUTION NO. 01-385 - AMENDING THE BULLARD COMMUNITY PLAN

3. BILL NO. B-97 - ORDINANCE NO. 01-86 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/EA/UGM TO S-L/EA/UGM

President Perea announced the time had arrived to consider the issue and opened the hearing. A motion and second was made to approve staff's recommendation.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Calhoun, seconded by Acting President Ronquillo, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for Environmental Assessment No. A-01-24, R-01-38, C-01-149 dated October 15, 2001, hereby approved; the above entitled Resolution No. 01-385 hereby adopted; and the above entitled Bill No. B-97 adopted as Ordinance No. 01-86, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes : None
Absent : None

- - - -

(11:15 A.M.) **(2:15 P.M. #6)** HEARING ON CONDITIONAL USE PERMIT (CUP) APPLICATION NO. 01-145, FILED BY ALGEN HOTEL DEVELOPMENT LLC, FOR A 15-STORY/400-ROOM HOTEL AND CONVENTION FACILITY ON THE NORTHEAST CORNER OF “M” AND INYO STREETS (808 “M” STREET), AND A CONVENTION CENTER PARKING STRUCTURE LOCATED AT THE SOUTHWEST CORNER OF “O” AND VENTURA STREETS EXTENDING TO INYO STREET NORTH OF THE CONVENTION CENTER COMPLEX (LOCATED IN DISTRICT 3)

1. RESOLUTION NO. 01-386 - APPROVING CONDITIONAL USE PERMIT NO. C-01-145, AS AMENDED

President Perea announced the time had arrived to consider the issue and opened the hearing. Acting President Ronquillo noted the staff report referenced a 5,000 car parking structure when 1,500 was approved and requested appropriate documents be modified to specify 1,500.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Acting President Ronquillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 01-386 hereby adopted, *as amended, modifying the parking structure from 5,000 stalls to 1,500 stalls*, and subject to the Conditions of Approval outlined in the staff report, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes : None
Absent : None

- - - -

(2:45 P.M.) APPEARANCE BY VINCENT LAVERY REGARDING A REQUEST FOR A RESOLUTION CALLING FOR THE END OF THE BOMBING IN AFGHANISTAN AND IMMEDIATE IMPLEMENTATION OF PROGRAMS FOR FEEDING AND HOUSING OF CHILDREN IN THE AFFECTED REGION

Appearance and request made; no action taken.

- - - -

(2:55 P.M.) APPEARANCE BY BOB NYGAARD REGARDING FUNDING OF OSAMA BIN LADEN’S TERRORIST ORGANIZATION

Appearance made; no action taken.

- - - -

(3:00 P.M.) DISCUSS SUBMITTING TO CITY ELECTORS AT THE MARCH 5, 2002, ELECTION, A PROPOSED CHARTER AMENDMENT RELATING TO COUNCIL VOTING REQUIREMENTS FOR PLAN ADOPTION AND PLAN AMENDMENTS - MAYOR AUTRY

Planning/Development Director Yovino gave an overview of the issue, and Mayor Autry presented his proposal to require a super-majority (5) vote of the Council to adopt, repeal and amend the new general plan, stated now was the time to put in place protections that would limit changes, noted the current simple-majority standard had proven to be too easy as learned by Operation Rezone, stated 366 plan amendments processed in the first 10 years of its inception was indicator that the current system was flawed, and concluded stating there had been tremendous input in the new plan which was a historic one for the city but it would not be worth the paper it was written on unless Council made it more difficult to make changes.

Angelica Torres, 5284 N. Market, Highway City area, spoke to the integrity of community planning members and in support of the issue.

Lengthy discussion ensued. Councilmember Duncan stated although the idea had value and merit he could not support moving it forward at this time as it was missing a point, emphasized the issue was the city needed a plan that was in place and current and he felt there should be consideration for a Charter requirement to keep the general plan current, added he felt public input and a review committee were first needed, and stated any change to the charter should be approached with extreme caution as it was the city's constitution and he did not see a reason to rush this for March. Councilmember Boyajian spoke in support stressing there had been no good planning for years and this proposal would allow for stability and continuity. **(6 - 0)** Acting President Ronquillo stated with the changes occurring with the new plan this may have merit and explained, and commented on the need to examine if the city's enterprise planning department was the way to continue. Mr. Yovino and City Attorney Montoy responded to questions of Councilmember Castillo and President Perea relative to the plan amendment process, if a majority vote at the planning commission was needed on their recommendations, planning commissioners being appointed by the mayor and the mayor having direct input in that area, if there was anything in the Charter that prohibited the mayor from making recommendations on land use matters, plan amendment numbers and percentage that were staff's recommendations, if the majority of plan amendments had been good or bad changes, need to think about changing to a super-majority vote planning commission recommendation, this being a good idea and the issue being how to phase it in, concern with the statement in the staff report that Fresno's plans never seem to be given a chance to "work", and the need for public input and discussion on the matter. There was no further discussion.

- - - -

(3A) * BILL NO. B-87 - AMENDING SECTION 9-77802 OF THE FRESNO MUNICIPAL CODE RELATING TO THE SALE, USE AND DISCHARGE OF SAFE AND SANE FIREWORKS FOR THE JULY 4TH INDEPENDENCE DAY CELEBRATION, AND REPEALING TABLE 7802.3 (ACTED UPON LATER IN THE MEETING)

A motion and second was made to adopt the ordinance. Councilmember Calhoun noted staff was not present and he wanted to ask questions relative to amending the ordinance to expand the number of permits allowed. With the absence of staff the matter was originally held over one week but was acted upon after the following two items and staff's arrival.

- - - -

(3B) * BILL NO. B-88 - ORDINANCE NO. 01-87 - ADDING SECTION 3-112 TO THE FRESNO MUNICIPAL CODE RELATING TO THE APPLICABILITY OF THE CALIFORNIA PUBLIC CONTRACT CODE

Speaking in opposition to the issue were: William Seiffert, Field Representative for the Construction Industry Force Account Council, 7649 Sunrise Blvd., Citrus Heights, CA; David Jones, 1951 N. Gateway Blvd., Associated General Contractors of California; and Robert Boileau, Senior Representative, Construction Industry Force Council.

City Attorney Montoy responded to questions of President Perea and Acting President Ronquillo relative to whether there were any legal issues associated with the ordinance and if this would be in conflict with state law or create any unfairness in terms of the bidding process. Acting President Ronquillo briefly left the meeting at 4:54 p.m.

On motion of Councilmember Calhoun, seconded by President Perea, duly carried, RESOLVED, the above entitled Bill No. B-88 adopted as Ordinance No. 01-87, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Perea
Noes	:	None
Absent	:	Ronquillo

- - - -

(3C) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH HANSEN INFORMATION TECHNOLOGIES TO PURCHASE ASSET MANAGEMENT SOFTWARE AND PROFESSIONAL SERVICES FOR THE DEPARTMENTS OF PUBLIC WORKS AND PUBLIC UTILITIES

Interim Public Utilities Director McIntyre gave a brief overview of the staff report as submitted and recommended approval of staff's recommendation.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the Professional Services Agreement with Hansen Information Technologies to purchase asset management software and professional services for the Departments of Public Works and Public Utilities hereby approved, and the Assistant City Manager authorized to sign the agreement on behalf of the City, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Perea
Noes	:	None
Absent	:	Ronquillo

- - - -

(3A) * BILL NO. B-87 - ORDINANCE NO. 01-88 - AMENDING SECTION 9-77802 OF THE FRESNO MUNICIPAL CODE RELATING TO THE SALE, USE AND DISCHARGE OF SAFE AND SANE FIREWORKS FOR THE JULY 4TH INDEPENDENCE DAY CELEBRATION, AND REPEALING TABLE 7802.3

Acting Preident Ronquillo returned to the meeting at 4:48 p.m. Fire Marshall Aranaz responded to questions of Councilmember Calhoun relative to expanding the number of permits, whereupon Councilmember Calhoun made a motion to amend the ordinance to increase the number of permits from 50 to up to 60. President Perea clarified a motion was made earlier, brought it forth and questioned if the motion-maker would accept the amendment, whereupon Councilmember Duncan clarified the number of permits was not set in the ordinance and direction could just be given to staff to increase the permits allowed to 60. Acting President Ronquillo questioned how the number of 50 permits was determined and stated he hoped the open lottery would continue with coaching to help the smaller organizations, with Mr. Aranaz responding.

On motion of Councilmember Duncan, seconded by Acting President Ronquillo, duly carried, RESOLVED, the above entitled Bill No. B-87 adopted as Ordinance No. 01-88, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo
Noes	:	Perea
Absent	:	None

- - - -

(5A) DIRECT THE CITY MANAGER TO DIRECT STAFF TO INSTALL PAVEMENT UNDULATIONS (SPEED BUMPS) ON 9TH STREET BETWEEN HAMILTON AND WOODWARD AVENUE ADJACENT TO SEQUOIA MIDDLE SCHOOL (DOES NOT MEET WARRANTS) - COUNCILMEMBER QUINTERO

Councilmember Quintero stated the matter did not meet warrants because it had not been taken through the process and explained the safety issue involved with the school and made a motion to approve his direction, which motion was seconded and acted upon after discussion.

Acting President Ronquillo spoke in support stating this did not relate to a typical residential street. Councilmember Calhoun stated he would vote “no” as he had to be consistent and send the same message he sends to his constituents. City Manager Hobbs stated he had serious concerns that this did not meet warrants and was a potential charter issue citing legal interpretations he’s read and explained. Upon request of President Perea, City Attorney Montoy advised of legal implications of the issue. Councilmember Castillo stated he tells his constituents they have to go through process therefore he could not support the motion. Councilmember Quintero stated abuse had not occurred where warrants had not been met and stressed speed bumps were put in for a reason at the request of people who have to live with speeding vehicles, stated if the warrant process was going to be enforced a lot of speed bumps and stops signs would have to be taken out, and reiterated this was a safety issue with a school. Brief discussion ensued with Acting President Ronquillo commenting on the issue and Councilmember Boyajian questioning what the consensus of the neighborhood and the warrant procedure.

On motion of Councilmember Quintero, seconded by Councilmember Duncan, duly carried, RESOLVED, the City Manager directed to direct staff to install pavement undulations (speed bumps) on 9th Street between Hamilton and Woodward Avenues adjacent to Sequoia Middle School, by the following vote:

Ayes	:	Boyajian, Duncan, Quintero, Ronquillo, Perea
noes	:	Calhoun, Castillo
Absent	:	None

- - - -

(4:30 P.M.) * BILL NO. B-91 - ADDING SECTION 8-135 TO THE FRESNO MUNICIPAL CODE RELATING TO JUVENILE ACCOUNTABILITY

- and -

(5B) DIRECTION TO DELAY THE ADOPTION OF THE JUVENILE ACCOUNTABILITY ORDINANCE FOR SIX (6) MONTHS - COUNCILMEMBER BOYAJIAN

(7 - 0) Councilmember Boyajian stated people were told and promised meetings would be held for all those interested to provide input and be included in the process, noted everyone was concerned about kids being in school and getting an education but stressed the issue was a promise was made to include everyone to obtain their input or serve on a committee, and made a motion to delay the matter six months to allow a blue ribbon committee study the issue, to hold public hearings and engage in dialog. Councilmember Castillo seconded the motion stating he previously asked to see more on the diversion portion of the ordinance yet nothing had changed and stated he hoped in the next six months more of a pro-active approach on the diversion programs would be brought back.

Speaking in support or opposition to the motion to delay were: Anne Goodman, opposed; Diane Scott, support; Dr. Pete Mehas, opposed; Alfred Ma, opposed; Gloria Hernandez, support; Kevin Hall, 1204 E. Sierra Madre, support; Darryl Mohammad, support; Brother Mohammad, support; Sam Hairston, support; Susan Bechara, House of Hope for Youth, opposed; Alfonso Hernandez, Chicano Youth Center, support; Cindy Freeman, support; Tara O'Rourke, support; Mary Savala, support; Phyllis Riddlesprigger-Jones, opposed, Rebecca Tello, opposed; Mitchell Jacoby, 2416 E. St. Andrew Drive, support; Rene Jacoby, 2416 E. St. Andrew Drive, support; Stan Geist, opposed; David Engle, 3008 Temperance, Clovis, support, who submitted a petition containing signatures in opposition to the ordinance; A. J. Mullaly; and Felix Ramirez, opposed.

Councilmember Castillo stated he did not know this many people would be speaking on the motion to delay and requested speakers simply state whether they supported or opposed the motion and not comment additionally on the issue or he would withdraw his second to the motion.

Continuing were: an unidentified gentleman who spoke in opposition to the ordinance and was called out of order by President Perea; an identified woman, support for the delay; Marianne Byers, 1575 N. Roosevelt, support; Nora Walker, 3621 N. 11th, support; Edwin Ramirez, 3966 E. Robinson, opposed; Therese Nichols, 1415 Linden, support; Ernst Moerk, 4178 W. San Jose, support; Candy Paulsen, 1157 W. Bedford; support; Robin Walker, 3621 N. 11th, support; Anne Mosgrove, 1204 E. Sierra Madre, support; a woman whose name was unintelligible, 3433 E. Pine, support; Sonny Sang, opposed; Robert Ford, 3948 E. Robinson, opposed; Karen Lamb, 4873 E. Leisure, support; Erin Ould, 5624 N. Thorne, opposed; Ray Ensher, 364 W. Vartikian, support; Mayor Autry, opposed; Mrs. Ramirez, opposed; Evelyn Marquez, 1240 N. Bailey, opposed; Marie Espinoza, opposed; and Rafael Villareal, 3059 E. Lamona, opposed.

Councilmember Duncan **(8 - 0)** and Acting President Ronquillo spoke in support of voting on the ordinance this date. Referencing comments made Councilmember Boyajian stated this was not about courage or political games and he did not shy away from the hard issues, stressed FUSD came up with a policy and this was an education issue, and urged his motion be supported stressing a procedure was set up and community input was needed. Councilmember Castillo spoke in support of the motion to obtain serious input and dialog and reiterated he wanted to see serious diversion programs included.

President Perea advised letters had been received from Charles Francis, County Board of Education Member, and G. L. Johnson from the Peoples Church, both in support of a delay, and added them into the record.

A motion of Councilmember Boyajian, seconded by Councilmember Castillo, to delay the matter six months to hold hearings, engage in dialog, receive community input and allow a blue ribbon committee study the issue failed, by the following vote:

Ayes	:	Boyajian, Castillo
Noes	:	Calhoun, Duncan, Quintero, Ronquillo, Perea
Absent	:	None

(4:30 P.M.) * BILL NO. B-91 - ORDINANCE NO. 01-89 - ADDING SECTION 8-135 TO THE FRESNO MUNICIPAL CODE RELATING TO JUVENILE ACCOUNTABILITY, AS AMENDED, CHANGING THE SUNSET CLAUSE FROM THREE YEARS TO TWO YEARS

Clarifying issues, speaking in support of the ordinance, reviewing the issue, ordinance and statistics, reviewing the city of Monrovia's ordinance and statistics, and/or speaking to Fresno's truancy problem were: Dr. Pete Mehas, Superintendent of Schools, Police Chief Dyer, Monrovia Police Officer Bill Couch, Sgt. Don Gross, Supervisor of the Juvenile Tact Unit, DARE Unit, Truancy Unit and Graffiti Enforcement Unit, Southeast Sgt. Neal Manha, Sgt. Len Gleim, MAGEC Unit and Supervisor of the Metro Investigation Unit, and Mayor Autry.

At the request of President Perea City Attorney Montoy reviewed the difference between what was introduced to Council several months ago versus now, and the differences between a truancy ordinance, a curfew ordinance and the juvenile accountability ordinance before Council this date.

Speaking in support or opposition to the ordinance were: Bill Riddlesprigger, 644 Fresno Street, FUSD Board Member and Fresno City College instructor, opposed; **(9 - 0)** Cyndie Adame, Director of the Juvenile Probation Division on behalf of Chief Larry Price, support; Gloria Hernandez, 3232 E. Hedges, opposed; Alfred Ma, support; Randy Kevorkian, CDC Parole Agent, support; Maire Nichols, 1415 N. Linden, opposed who submitted a petition containing signatures in opposition; Officer and parent Mark Rodriguez, HEAT Team, support; Anne Mosgrove, 1204 E. Sierra Madre, opposed, who submitted a petition in opposition; Therese Nichols, 1415 N. Linden, opposed, who submitted a petition in opposition; V. Diane Scott, 4843 EN. Thesta, opposed; Darryl Mohammad, 2337 W. Fedora, opposed; Brother Muhammad, opposed; Marie Espinoza, E. Balch, support; Mrs. Marquez, support; Rafael Villareal, 3059 E. Lamona, support; Art Rocha, 1260 Mariposa, support; Rudy Marez, House of Hope for Youth, support; Susan Bechara, House of Hope for Youth, support; Rosalba Ramirez, 3966 E. Robinson, support; Edwin Ramirez, 3731 Cedar, support; Emery Hudson, 1944 W. Fedora, opposed **(10 - 0)**, who submitted a petition in opposition; Dr. Charlie Fox, Retired Teacher, E. Beverly Way, support; Officer Robert Cline, support; Tony Sosa, Decision Founder/Director, Turning Point Drug and Alcohol Counselor, support; Officer Robert Arendt, support; and George Findley, 252 E. Hawes, support.

Continuing were: Larry Arce, 5970 E. Illinois, Executive Director of the Fresno Rescue Mission, support; Officer and parent Dennis Zeunner, support; Stan Geist, 3330 W. Dudley, opposed, who submitted petitions in opposition; Anne Goodman, 1296 N. Poplar, support; Officer Greg Ayello, support; Michael Fannen, 3837 E. Swift, opposed; Rebecca Tello, support; Nora Walker, 3621 N. 11th, opposed; Robin Walker, 3621 N. 11th, opposed; Lauren Ferber, 743 E. Weldon, opposed, who submitted petitions in opposition; Bruce Bickham, 51823 Sesame Lane, Squaw Valley, opposed, Pasquale Corbone, 12627 E. Paul, Clovis, opposed, who submitted petitions in opposition; Scott Byers, 1575 N. Roosevelt, opposed, Travis Adams, Coarsegold, opposed **(11 - 0)**; Ariana Winger, 311 W. Barstow, opposed; Mae Morita, 5162 N. Biola, support; Sam Hairston, 4596 E. Sierra Madre, opposed, who submitted petitions in opposition; Lori Cowart, 250 N. San Ramon, opposed; Joey Hall, 1204 E. Sierra Madre, opposed; David Engle, 3008 Temperance, Clovis, opposed; Josh Engle, 3008 Temperance, Clovis, opposed; and Wayland Engle, 3008 Temperance, Clovis, opposed.

Continuing were: Clifford Winger, 311 W. Barstow, opposed, who submitted petitions in opposition; Marianne Byers, 1575 N. Roosevelt, opposed, who submitted petitions in opposition; Micah Byers, 1575 N. Roosevelt, opposed; Candy Paulsen, 1157 W. Bedford, opposed; Joe McNair, 523 E. San Bruno, opposed; Dorothy Bruce, 1820 N. Vagedes, opposed; Arthur Conway, 617 N. Hughes, opposed, who submitted petitions in opposition; Marleen Newburn, 2230 Norris Drive West, opposed; Sgt. John Jensen, support **(12 - 0)**; Kevin Hall, 1204 E. Sierra Madre, opposed, who submitted petitions in opposition; Felix Ramirez, 3966 E. Robinson, support; Renee Jacoby, 2416 E. St. Andrew Dr., opposed; Rev. Walt Parry, Fresno Metro Ministry, 1055 N. Van Ness, opposed; Cindy Freeman, 224 E. Michigan, opposed; Mike Biskup, 3826 E. International, opposed; Barbara Yorganjian, 3433 E. Pine, opposed; Samantha Fields, 4972 W. White, opposed; Ann DeLollis, 5330 E. Madison, opposed; Marsha Simpson, 2881 E. Huntington Blvd., support; Paul Lake, 4513 E. Rialto, opposed; and Gloria Torrez, 2600 Fresno Street, opposed.

Councilmember Duncan entered into the record a copy of a letter from the Park Ft. Washington Homeowners Association/The Dominion in support of the ordinance, presented questions relative to whether any requests had been made for police ride-alongs after he encouraged citizens to do so at the last discussion, with Chief Dyer responding, and if Kevin Hall was willing to chair a citizens task force to consider alternatives to stop truancy since the issue was not going away even if the ordinance passed, with Chief Dyer and Mr. Hall responding, and made a motion to adopt the ordinance which motion was seconded by Councilmember Quintero and later acted upon.

Chief Dyer and Sgt. Gross clarified issues and/or responded at length to questions of Councilmembers Castillo and Calhoun relative to connection between the ordinance and the JAIP grant, purpose of the grant, who performed the analysis on the juvenile system and its' needs, make-up of the group that performed the analysis, if the police department was looking to reduce juvenile crime by targeting known offenders, the ordinance and grant being unrelated, **(13 - 0)** issued citations becoming misdemeanors, court process thereafter, number of truants anticipated to be dealt with in the first year, parent notification process, if citations could be tossed out in court, the diversion program, if students could be referred to a diversion program without being found guilty, consequence of being found guilty of a misdemeanor, who would be responsible for imposing and collecting fines, if police officers were currently involved at schools and if there was a potential to remove them, and if any suggestions or proposals had come out of meetings held with community groups.

Councilmember Calhoun spoke in support of the ordinance stating Council owed it to the community to at least give it a try but stated he felt the three year sunset was too long and offered an amendment to the motion to provide for a one year sunset. Upon question of Councilmember Duncan, Chief Dyer stated his concern was one year might not be enough time to see if the ordinance worked and advised two years would be acceptable but three was preferred. The amendment was accepted for a two year sunset clause ending July 1, 2004, to cover two school years with analysis to commence in Fall 2002.

Police Legal Advisor Donaldson addressed the misdemeanor issue stating comments made that the truancy ordinance was *not* criminal was not accurate as students were subject to "criminal sanctions" and explained. Councilmember Quintero and Acting President Ronquillo commented on the issues of truancy, community involvement and the need for it to continue, and the need to stop the cycle of criminality. Acting President Ronquillo presented a list of approximately 80-90 interested citizens to Mr. Hall in case anyone was interested in furthering the dialog.

Lengthy discussion continued with Mr. Riddlesprigger, an unidentified audience member, Mr Donaldson, Mr. Madrid of the Mayor's Education staff, Ms. Montoy, Mr. Harris, Chief Dyer and Ms. Adame clarifying issues and/or responding to questions and/or comments of Councilmembers Boyajian, Castillo, President Perea and Councilmember Quintero relative to how long FUSD had been aware of the ordinance, if the Board as a whole looked at the truancy issue, if anyone on the school board made a motion to support the ordinance, the issue of kids not wanting to go to school and reasons therefore, what age kids started having those tendencies (**14 - 0**), if juvenile hall has been a consequence of truancy, if Mr. Riddlesprigger was going to recommend the school board pass the ordinance, the ordinance being an insult to the FUSD in that it was saying they could not do their job, if probable cause was needed to detain kids, kids having statutory rights and due process, Councilmember Boyajian speaking in opposition to the ordinance stating the city was opening itself up to lawsuits, what the city was going to do to insure all boards of education would support the ordinance if passed, if there was any ordinance they would have to enact as a result of this ordinance, Councilmember Castillo stating he wanted to see (1) kids do weekend community service in their own schools and neighborhoods, (2) consequences turn into opportunities, (3) a one year informal status report to Council, and (4) something more pro-active with children under 12 years of age, the ordinance starting out as a curfew ordinance and ending up as a crime ordinance, what the crime would be if the ordinance was defended as a public safety curfew ordinance, numbers/breakdown on truants and habitual truants, lack of data being part of the problem, plans to obtain funds for the diversion programs, President Perea reiterating his concern with the silence of the school boards, probation officers assigned to the four affected school districts and if they would be deputized, need for data, and clarification that the ordinance would sunset on July 1, 2004. Not speaking into the microphone, Dr. Mehas clarified the school board had representation at meetings on three occasions, with President Perea responding.

On motion of Councilmember Duncan, seconded by Councilmember Quintero, duly carried, **RESOLVED**, the above entitled Bill No. B-91 adopted as Ordinance No. 01-89, *as amended, changing the sunset from three years to two years ending July 1, 2004*, by the following vote:

Ayes	:	Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
noes	:	Boyajian
Absent	:	None

- - - -

ADJOURNMENT

There being no further business to bring before the Council, the hour of 11:19 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned.

APPROVED on the 4th day of December, 2001.

ATTEST:_____

Henry Perea, Council President

Yolanda Salazar, Assistant City Clerk

138-240

11/27/01